

Appl. No. 09/780,962
Preliminary Amendment

Docket No. 85804-019800

REMARKS

This Preliminary Amendment is being filed with a Request For Continued Examination. The present application has been carefully reviewed in light of the Office Action dated April 26, 2005. Claims 37 to 54, which have been withdrawn from examination, are cancelled without prejudice or disclaimer of the subject matter. Claims 1 to 36 and 55 to 58 are the pending claims being examined in the application, of which Claims 1, 23, 25, 27 and 29 are independent. Claims 1 to 4, 9, 10, 12, 14, 15, 19, 20, 23 to 30, 32, 33 and 36 are amended, and Claims 55 to 58 are added, herein. Reconsideration and further examination are respectfully requested.

Initially, with regard to a formal matter, Applicant acknowledges receipt of the initialed copy of form PTO-1449, which indicates that the art submitted with the Information Disclosure Statement dated June 27, 2001 has been considered and made formally of record. Further in this regard, Applicant submitted Information Disclosure Statements dated August 18, 2004 and April 25, 2005. A check of the Patent Office's PAIR system shows that these Information Disclosure Statements were received by the Patent Office. Accordingly, Applicant respectfully requests initialed copies of form PTO-1449 to indicate that the art cited in these Information Disclosure Statements has been considered and made formally of record.

With regard to another matter, upon review of the written grounds for the telephone restriction requirement set forth in the Office Action mail dated June 4, 2004, it is noted that Claims 46 to 51 are identified in more than one grouping of claims. For purposes of examination of the present application, the non-elected claims, which include Claims 46 to 51, are being cancelled herein. However, in view of the above-noted inconsistency in the grounds for the restriction, Applicant reserves the right to reintroduce subject matter from these cancelled claims. Applicant respectfully requests further clarification of the claim groupings identified in the written grounds for the restriction requirement.

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By the Office Action, Claims 1 to 36 are rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,611,812 (Hurtado). Reconsideration and withdrawal of the rejection are respectfully requested.

Turning to the language of the claims, Claim 1 is directed to a network server in a system comprising a communications network connecting a plurality of network servers and a plurality of computers. The network server comprises a verification database comprising master table of contents information corresponding to each of a plurality of sets of digitized content, and at least one master songprint identifier corresponding to each of the plurality of sets of digitized content. The network server is programmed to receive at least one of a plurality of selections of table of contents information from at least one of the plurality of computers, and to receive at least one of a plurality of songprint identifiers from the at least one of the plurality of computers. Each songprint identifier is derived from digitized content.

The applied art, namely Hurtado, is not seen to show each and every one of the above-identified features, particularly as regards a network server with a verification database comprising master table of contents information corresponding to sets of digitized content and at least one master songprint, the network server programmed to receive a plurality of selections of table of contents information and songprint identifiers from at least one of a plurality of computers, each of the songprint identifiers derived from digitized content.

Hurtado is seen to describe a technique for distributing content from a content hosting site to an end user after purchase information is verified by a clearinghouse. Referring to Figure 6, and the description commencing at col. 25, line 24, of Hurtado, a content provider 101 provides content 630 encrypted using an encryption key to content hosting site 111. In addition, the content provider provides usage conditions 517 and the content encryption key 623 (in an encrypted form) to digital content store 103. End user 609 enters into a purchase agreement with

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digital content store 103, which sends a "transaction" 640 consisting of a transaction identifier, usage conditions and the encryption key 623 to end user 609. End user 609 then sends this transaction information plus an application identifier to clearinghouse 105, which verifies the transaction information before end user 609 is permitted to download content from content hosting site 111. Referring to col. 26, lines 45 to 65, Hurtado is seen to describe that the clearinghouse 105 verifies that the digital content store 103 exists in the system, and that the transaction information provided by the end user 609 has not been tampered with and is consistent. If the verification is successful, clearinghouse 105 sends a "license" to the user, which includes the encryption key (which has been encrypted using the user's public encryption key), and the URL of the content hosting site 111, which end user 609 uses to download and play the content. (See col. 88, lines 33 to 51 of Hurtado).

Referring to other portions of Hurtado cited in the Office Action, at col. 12, lines 17 to 20, Hurtado describes metadata as a song title or song credits but that metadata is not the sound recording of a song. In addition, at col. 31, lines 40 to 67, Hurtado is seen to describe the contents of a metadata table, which consists of the metadata, usage conditions, and a content identifier. The content identifier is simply a unique identifier assigned to the content. Thus, nothing in these cited portions of Hurtado is seen to be the same as a songprint identifier derived from digitized content.

Furthermore, nothing in the cited portions of Hurtado is seen to describe a network server which comprises a verification database comprising master table of contents information and at least one songprint identifier, and which is programmed to receive table of contents information and a songprint identifier, wherein each songprint identifier is derived from digitized content, as recited in Claim 1.

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For at least the foregoing reasons, Hurtado is not seen to anticipate nor render obvious, either alone or in any permissible combination with art of record, the claimed invention. Accordingly, Claim 1 is believed to be in condition for allowance. In addition, for at least the same reasons, Claim 29 is also seen to be in condition for allowance.

Since Claims 23, 25 and 27 recite features similar to those of Claim 1, these claims are also believed to be patentable over the art of record for at least the reasons discussed above. In addition, each of these claims recite additional features which are also not seen to be shown in Hurtado.

More particularly, according to Claims 23, 25 and 27, the network server is programmed to request at least one of a plurality of regions of digitized content from at least one of plurality of computers, the request is a function of whether or not the received selections of table of contents information correlate with any of the master table of contents information (Claim 23), the request is a function of whether or not the received selections of songprint identifiers correlate with any of the master songprint identifiers (Claim 25), or the request is a function of whether or not the received selections of table of contents information and selections of songprint identifiers correlate with any of the plurality of master table of contents information and songprint identifiers.

Hurtado is not seen to show a network server requesting regions of digitized content as a function of correlating received table of contents information with master table of contents information, correlating received songprint identifiers with master songprint identifiers, or both. The Office Action cites Hurtado col. 88, lines 33 to 51. However, as discussed above, this portion of Hurtado is seen to describe an end user requesting digitized content from a content hosting site. This is not seen to be the same as a network server requesting at least one of a plurality of regions of digitized content as a function of whether or not the received selections of

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table of contents information correlate with any of the master table of contents information, the received selections of songprint identifiers correlate with any of the master songprint identifiers (Claim 25), or the received selections of table of contents information and selections of songprint identifiers correlate with any of the plurality of master table of contents information and songprint identifiers.

For at least the foregoing reasons, Hurtado is not seen to anticipate nor render obvious, either alone or in any permissible combination with art of record, the claimed invention. Accordingly, Claims 23, 25 and 27 are believed to be in condition for allowance.

The other claims are each dependent from the independent claims discussed above and are therefore believed patentable for at least the same reasons. Because each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration of each on its own merits is respectfully requested.

In this regard, new dependent Claims 55 to 58 are also believed to be in condition for allowance. More particularly, Claim 55 recites the features that each master songprint identifier is derived from a digitized content master, and each received songprint identifier is derived from a digitized content copy. Claim 56 is directed to the server receiving table of contents information and a songprint identifier corresponding to the digitized content copy, the server being programmed to use the received table of contents information and songprint identifiers to identify a correlation between a digitized content master having corresponding information stored in the verification database and the digitized content copy. According to claim 57, the server is programmed to verify the digitized content copy using information stored in the verification database corresponding to the correlated digitized content master, and Claim 58 is directed to the server programmed to request at least one content portion of the digitized content

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copy using the identified correlation between one of the digitized content masters and the digitized content copy.

Based on the discussion of Hurtado provided herein, Hurtado is not seen to anticipate nor render obvious, either alone or in any permissible combination with art of record, the claimed invention. Accordingly, new Claims 55 to 58 are believed to be in condition for allowance.

In view of the foregoing, the entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

The Applicant respectfully requests that a timely Notice of Allowance therefore be issued in this case. Should matters remain which the Examiner believes could be resolved in a further telephone interview, the Examiner is requested to telephone the Applicant's undersigned attorney.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-2638. Please ensure that the Attorney Docket Number is referred when charging any payments or credits for this case.

Respectfully submitted,

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